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LETTER DATED 12 APRIL 1999 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to article 12, paragraph 4, of the statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, which reads:

> "In the event of a vacancy in the Trial Chambers, after consultation with the Presidents of the Security Council and the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of paragraph 1 above, for the remainder of the term of office concerned."

In this connection, I should like to inform you that Judge Dionysius Kondylis of Greece, has resigned as a Judge of the Trial Chambers of the Tribunal, effective 22 March 1999.

With a view to replacing Judge Kondylis, I have reviewed the list of candidates for election to the Trial Chambers of the Tribunal which was established by the Security Council in its resolution 1200 (1998) of 30 September 1998 and which was transmitted to the General Assembly in connection with the elections which were held on 3 November 1998, and have come to the view that Judge Kondylis should be replaced by Mr. Asoka de Zoysa Gunawardena of Sri Lanka, whose name was included in that list. Please find his curriculum vitae attached.

It is my view that Mr. Gunawardena meets the qualifications which are prescribed in article 12, paragraph 1, of the statute of the Tribunal. I also consider that his appointment would be well calculated to ensure adequate representation on the Tribunal of the principal legal systems of the world, as contemplated in article 12, paragraph 3 (c), of the statute, and would, moreover, ensure the representation of all geographical regions on the bench. I would also note that, discounting the nine candidates who were successful in the elections of 3 November 1998, Mr. Gunawardena obtained the highest number of votes in the first, second and third rounds of the five rounds of balloting.

I should, therefore, like to consult you on the appointment of Mr. Gunawardena, in accordance with article 12, paragraph 4, of the statute of the Tribunal.

I look forward to receiving your views on this matter at the earliest available opportunity, since I am eager that Judge Kondylis's replacement should take up office as soon as possible and, in any event, by 31 May 1999, when it is planned that the two newly elected Judges of the Tribunal who have yet to commence their terms of office will make the solemn declaration required by the Tribunal's Rules of Procedure and Evidence and so enter upon their duties.

(Signed) Kofi A. ANNAN

Annex

Asoka de Zoysa GUNAWARDENA
(Sri Lanka)

Designation: Judge of the Supreme Court of Sri Lanka.

Address: 50/2 B, Siripa Road, Colombo 5, Sri Lanka.

Date of birth: 6 August 1942.

Professional qualifications

Barrister-at-Law of the High Court of Australia and the Supreme Court of New South Wales (enrolled on 2 November 1984).

Advocate (Attorney-at-Law) of the Supreme Court of Sri Lanka (enrolled on 12 June 1967). Passed the preliminary and the intermediate examinations for the admission of advocates with first class honours and was awarded the scholarships at both examinations.

Academic qualifications

LL.B., University of Ceylon, Colombo (1969).

Ph.D., University of Sydney, Australia (1986). Thesis topic: "Some aspects of the law governing international investments: third world perspectives". In addition, a comparative study of investment laws of Singapore, Sri Lanka, Saudi Arabia, Nigeria and Mexico was also undertaken.

Awarded Diploma in Human Rights by Raoul Wallenberg Institute, University of Lund, Sweden (1993).

Professional experience

Called to the Sri Lanka Bar in June 1967. After practising at the private Bar until January 1972, joined the Attorney-General's Department as a Crown Counsel. Functioned in both civil and criminal branches of the Department. Appeared for the Crown and later for the State in both civil and criminal cases, in the Primary as well as in the Appellate Courts. Appearance in criminal cases included the framing of indictments and the conduct of prosecutions in more than 1,500 cases, in the High Court, in capital offences such as murder, attempted murder, rape and robbery. Giving legal advice to the government departments and agencies in both civil and criminal matters was also part of the functions.

Led the prosecution team in the Chandrasekera Dias murder trial before the High Court, involving the death of a Sri Lankan United Nations expert.

Promoted to Senior State Counsel in 1978. The additional duties of this office included supervision of work of several State Counsel.

Appointed Deputy Solicitor-General in February 1986. In 1986, conducted prosecutions before the Special Presidential Commission, appointed to inquire into corruption, misuse and abuse of power by ministers, members of Parliament and other high-ranking public officers.

Appointed Judge of the Court of Appeal of Sri Lanka on 21 March 1988. The work of this Court involves the hearing of appeals from all original Courts and Tribunals, such as the High Court, District Court, Magistrate's Court, Primary Court, Labour Tribunal, Agricultural Tribunal and such other institutions. It also exercises writ jurisdiction in the nature of habeas corpus, Certiorari, prohibition, mandamus and quo warranto.

Academic activities

Publications

Invited to address the American Society of International Law (ASIL) at the eighty-sixth annual meeting (1992) as a panellist on the topic "Bilateral investment treaties". Published in the Proceedings of the eighty-sixth annual meeting of ASIL, pp. 544-550.

Presented paper on "The role of arbitration in the settlement of disputes in the Asia-Pacific Region" at the Law Association for Asia and the Pacific (LAWASIA) Conference (September 1993). Published in Proceedings of the Conference.

Tutor at the 1993 session on "Peace and human rights" at the Institute of International Public Law and International Relations of Aristotle University, Thessaloniki, Greece, and delivered a lecture on "The right of self-determination: a challenge to the concept of national sovereignty?". Published in Thesaurus Acroasium, 1993.

An Asian perspective of human rights. Singapore journal of legal studies, December 1994, pp. 521-530.

Presented a paper entitled "The spread of child abuse: a real danger to children's rights and health" and presided over the judicial sessions at the fourteenth LAWASIA Conference, Beijing, August 1995. Published in the Proceedings of the Conference.

Tutor at the 1995 sessions on "International justice" at the Institute of International Public Law and International Relations of Aristotle University, Thessaloniki, Greece, and delivered a lecture on "The Security Council and the International Court of Justice: are they in conflict or in concourse?". To be published in Thesaurus Acroasium, 1995.

Participation in conferences

Eighty-seventh annual meeting (1993) of the American Society of International Law and took part in the panel discussion on "New trends in international dispute settlement" and "The United Nations: meeting the challenges of the post-cold war world". Proceedings of the eighty-seventh annual meeting of ASIL, pp. 14-15 and 193.

Workshops at the Second Amsterdam International Law Conference on Peoples and Minorities in International Law, 18-20 June 1992.

Presented a paper on "Growth and significance of bilateral investment treaties with special reference to Sri Lanka" at a seminar on "Investment opportunities and laws relating to investor protection", organized by the Association of Persons of the Legal Communities of the SAARC Countries (SAARCLAW) (Sri Lanka), 11-12 July 1992.

Participated as a Sri Lankan Specialist and chaired the panel discussion on "Settlement of commercial disputes" at a seminar organized by the United Nations Commission on International Trade Law (UNCITRAL), Sri Lanka, 9-11 January 1993.

Fifth SAARCLAW Conference, Dhaka, Bangladesh, 27-29 December 1996; presided over the session on "Abuse of women and children: the legal response".

Panellist at the ninety-first annual meeting of the American Society of International Law, 9-12 April 1997, at the panel discussion on "The United Nations Convention on the Rights of the Child".

Appointments

Member of the Panel of Arbitrators of the International Centre for Settlement of Investment Disputes, Washington, D.C.

Sometime Visiting Lecturer and Examiner, University of Colombo, in a diploma course in international trade law.

Sometime examiner for the Ph.D. (Law) degree of the University of Colombo.